not be granted in case of every threatened trespass either to person or property. We see no reason to depart from the old and well established rule that an injunction will not lie to prevent a threatened trespass."

FOREIGN CORPORATIONS—FAILURE TO COMPLY WITH LAWS—EFFECT ON CONTRACTS.—Plaintiff, a foreign corporation, doing business in Utah, brought action to recover the value of merchandise sold and delivered. Defendant answered, alleging that plaintiff had not legal capacity to sue, because it had not filed a certified copy of articles of incorporation with the secretary of state, and had failed to designate an agent upon whom process might be served. *Held,* that contracts of a foreign corporation, made while doing business in the state, without complying with the laws of the state, respecting such corporations, are invalid, and cannot be enforced in the courts of this state by the corporation. *A. Booth & Co.* v. *Weigand* (1904), — Utah —, 79 Pac. Rep. 570.

In general the right of a state to exclude foreign corporations or to prevent a suit being maintained by them until the compliance with conditions precedent is well settled, provided that equal protection of the laws is not denied, nor the constitutional inhibition against interference with interstate commerce violated. See 3 MICHIGAN LAW REVIEW, 72, 239. But, as is indicated in the able dissenting opinion, such contracts ought not to be declared invalid unless the constitution or law has clearly so intended. Equity demands that a dishonest debtor should not be permitted to shield himself behind the law. The courts differ widely in their interpretation of such laws. Of course, where such contracts have been declared invalid by the law, no question can be raised. But usually it is not expressly declared that contracts made before complying with the conditions are void. For discussion of the different kinds of statutes and their effect see CLARK & MARSHALL ON PRIVATE CORPORATIONS, Sec. 847, 860; COOK ON CORPORATIONS, Sec. 697; MORAWETZ ON PRIV. CORPORATIONS, Sec. 661-665.

JUDICIAL OFFICER—LIABILITY OF INFERIOR JUDICIAL OFFICER ACTING UNDER A VOID LAW.—A private citizen presented to the defendant, Satterlee, a town magistrate, an information charging the plaintiff in this action with the breach of a town ordinance. Satterlee issued a warrant for plaintiff's arrest, but upon the hearing the ordinance, for the breach of which the warrant was issued, was declared to be void. The plaintiff brought this action against the magistrate and the complainant who filed the information, for damages for false imprisonment. *Held,* that defendants were not liable. *Gilbert* v. *Satterlee et al,* (1905), — N. Y. —; 91 N. Y. Supp. 960.

It is a well settled rule of law that if a magistrate having special and limited jurisdiction acts without jurisdiction or in excess of his jurisdiction he is liable in damages to the party injured thereby. *Bigelow* v. *Stearnes,* 19 Johns. (N. Y.) 39; *Grumon* v. *Raymond,* 1 Conn. 39; *Piper* v. *Pearson,* 2 Gray, 120. The earlier decisions held this rule applicable to the case of a magistrate who acted under a statute which was later declared void, and such is perhaps the weight of authority at the present time. *Kelly* v. *Bemis,* 4

Gray, 83; *Ely* v. *Thompson,* 3 A. K. Marsh (Ky.), 70. The decisions in these cases are based upon the reasoning of several courts which hold that after a statute is declared to be unconstitutional and void it is as if it had never been passed; that any rights depending upon such statute are of no effect; and that such statute affords no protection to one who has acted under it. *Norton* v. *Shelby Co.,* 118 U. S. 425, 441; *Osborne* v. *The Bank of the United States,* 9 Wheaton, 738; *Woolsey* v. *The Commercial Bank,* 6 McLean, 142; *Strong* v. *Daniel,* 5 Ind. 348; *Wyandotte* v. *Kansas City,* 5 Kan. App. 43. The tendency of the later decisions is to release inferior magistrates from such strict liability. They hold that when a complaint, alleging the breach of an ordinance, is presented to a magistrate he is required, before issuing a warrant, to pass judicially upon the validity of the ordinance and, having done so, an erroneous decision upon the subject is a mere mistake in judgment for which he is not liable. *Henke* v. *McCord,* 55 Ia. 378; *Brooks* v. *Mangan,* 86 Mich. 576.

LIFE ESTATE—WASTE—FORFEITURE.—Plaintiffs, as heirs at law, bring an action for waste against a widow in possession of her dower estate, under a statute providing that "A tenant for life is entitled to the full use and enjoyment of the property so that he exercises the ordinary care of a prudent man for its preservation and protection, and commits no acts tending to the permanent injury of the estate. For want of such care, and willful commission of such acts, he forfeits his interest." *Held,* the plaintiffs not having proved both voluntary and permissive waste were not entitled to a forfeiture. *Roby* v. *Newton* (1905), — Ga. —, 49 S. E. Rep. 694.

A minority dissented from this construction of the statute, which differs from the common law and from the statutes of every other state. At common law forfeiture was not inflicted for waste, and only guardians in chivalry, tenants in dower, and by the curtesy were liable in damages. II. BL. COMM. 283. The Statute of Marlbridge, 52 Hen. III. c. 23, extended the right of action to include tenants for life and years, and that of Gloucester 6 Edw. I, c. 5, provided for forfeiture of the thing wasted and treble damages. II. BL. COMM. 283. That these statutes never became part of the common law in the United States see *Smith* v. *Follinsbee,* 13 Me. 273; *Woodward* v. *Gates,* 38 Ga. 273; *Moore* v. *Ellsworth,* 3 Conn. 483. That they are in force, wholly or in part, see *Donald* v. *Elliott,* 11 Miscl. 120; *Sackett* v. *Sackett,* 8 Pick. 309; *Sherrill* v. *Connor,* 107 N. Car. 630. Under the modern English rule a life tenant is not liable in damages for permissive waste. *In re Cartwright,* 41 Ch. Div. 532. The same rule exists in Kentucky, *Smith* v. *Mattingly,* 96 Ky. 228. Under the Iowa Code, § 4305, failure to prevent waste by use of reasonable care is equivalent to committing it. In Texas the civil law rule prevails, and the dower estate,—in nature a usufruct,—is unimpeachable for waste, *Higgins Oil Co.* v. *Snow,* 51 C. C. A. 267. A life estate may be forfeited for either permissive or voluntary waste in Oregon, Ann. L. § 337; R. I. Gen. L. Ch. 268; Ia. Code § 4303; Me. Rev. Stat. Ch. 103; Mass. Rev. L. Ch. 185; N. J. Gen. L. § 3748; N. Car. Code §§ 624 and 630; Ohio, Ann. Stat. § 4177; Indiana Annot. Stat. § 7094; N Y. Co. Civ.